

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES, *et al.*,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Civil Action No.1:23-cv-00108-LMB-JFA

**DEFENDANT GOOGLE LLC'S REPLY TO
PLAINTIFFS' STATUS REPORT RESPONSE**

Google files this short reply to Plaintiffs' Response to Google's Status Report (Dkt. 1517). In their response, Plaintiffs suggest that Google's offer to produce nonsettlement materials, namely (1) Google's response to the EC's Statement of Objections (Remedy Chapter) and (2) Expert Report of Professor Jason Nieh, is insufficient because Google has represented that all responsive materials are settlement materials. That is not accurate.

First, Plaintiffs are aware (and have been well aware for some time) that Google made submissions to the EC outside of any settlement context and those submissions are responsive to RFP 2. *See, e.g.*, Dkt. 1477-6 at 2 (Google's June 6 letter to Plaintiffs concerning RFP 2 and the EC materials, which Plaintiffs attached to their motion to compel, explicitly discusses non-settlement materials: "even if Plaintiffs only sought Google's ***non-settlement materials***, producing those materials from an ongoing, confidential foreign proceeding would be inappropriate, especially when they bear little relevance to laws and standards governing this case.").

Second, as Google explained, the EC materials Plaintiffs are requesting “include”—but are not limited to—settlement materials: “while Plaintiffs claim they are not interested in ‘settlement proposals or negotiations about such proposals,’ . . . the EC-related materials they seek ***include*** exactly that.” Dkt. 1494 at 4 (emphasis added). Plaintiffs specifically highlighted this language in their reply in support of the motion to compel, arguing:

Because Plaintiffs are not seeking those documents, but instead factual statements Google made to the EC—***including statements outside of any potential settlement context***—CHS is inapt. And ***Google implicitly concedes that these documents exist*** when it notes that “the EC-related materials [Plaintiffs] seek *include* exactly that.” Opp. at 4.

Dkt. 1499 at 12 (third emphasis in original).

Third, as made transparent during the June 20 hearing, Plaintiffs are not limiting their request to factual statements made in submissions outside of the settlement context, they are also seeking documents provided in the context of settlement negotiations. June 20, 2025 Hr’g Tr. 22:12-18 (“That Google goes to European Commission -- and perhaps they do make a settlement proposal. Maybe they are in negotiations. We’re not interested in those documents, and [the requested documents] may be related to those. ***They may be in that context***, but they are factual representations.”).

In sum, Plaintiffs are wrong when they take one line out of context from a prior filing to suggest that Google’s offer to produce non-settlement materials to the EC “would not help resolve the present dispute.” Dkt. 1517 at 2.

Dated: June 30, 2025

Respectfully submitted,

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